

## **REMARKS**

### **Amendments**

The claims are amended to uses language in accordance with conventional US practice, and to delete superfluous language. Additionally, claim 1 is amended to recite that layer (2) comprises a graft copolymer comprising a polyolefin backbone functionalized by an unsaturated monomer (X) and at least one polyamide graft, wherein the graft copolymer is obtained by reaction between a polyamide having an amine end group and the residue of the unsaturated monomer (X) having a functional group capable of reacting with amine end group of the polyamide. The unsaturated monomer (X) is attached by grafting or copolymerization via its double bond. See, e.g., page 15, lines 8-11.

Claims 6-8 are amended to expressly recite that the structure of claim 1 is of a specified shape. Claim 9 is also amended to expressly recite that the structure is of a specified shape. Claim 11 is amended to correct an error in dependency. Claims 12 and 14 are amended to correct obvious typographical errors. Claim 13 is amended to expressly refer to the polyolefin backbone recited in claim 1.

New claims 21-23 are directed to further aspects of the claimed invention and are supported throughout the disclosure. See, e.g., page 6, lines 13-16 and page 11, line 25-page 12, line 22.

### **Restriction**

In the Office Action, the Examiner argued that the “laminate” of Group I (claims 1-5 and 10-18) loses it identity in articles of claims 6-9 because the articles of these claims are formed from the structure of claim 1. Applicants disagree with the assertion of loss of identity. Clearly, the articles described in claims 6-9 are still a multilayer structure or, using the Examiner’s language, a “laminate.” The Restriction and the arguments in support thereof do not demonstrate or even allege that material in question somehow losses its multilayer structure when the shape of the material is specified. Furthermore, claim 1 which recites a multilayer structure is not limited as to shape and thus encompasses all articles exhibiting such a multilayer structure. Solely to emphasize this point, claims 6-8 are amended recite that the multilayer structure of claim 1 has specified shapes, rather than using the “formed from”

ATOCM-0349

language. Claim 9 is amended in a similar manner.

As for Group I and the method claims of Group III, these claims are related as product and method of making. Upon determination that the claims of Group I are allowable, applicants request rejoinder of method claims 19-20, pursuant to MPEP §821.04.

In view of the above remarks, withdrawal of the Restriction and examination of all pending claims is respectfully requested.

#### **Rejection under 35 USC §112, second paragraph**

Claims 1, 5, and 11-13 are rejected as allegedly being indefinite. This rejection is respectfully traversed.

In the rejection, the Examiner asserts that the language “based on” does not recite any structure or composition. Applicants disagree. One of ordinary skill in the art would clearly recognize that a layer which is based on a certain polymer must comprise that polymer. In any event, the “based on” language is deleted by the above amendments.

In the rejection, it is argued that the recitation in claim 5 of the backbone containing X is without antecedent basis in claim 1. Applicants again disagree. Claim 1 recites that the residues of the unsaturated monomer (X) can be attached to the backbone by copolymerization. This would result in a backbone containing residues of the unsaturated monomer (X). In any event, claim 5 is amended to recite that the polyolefin backbone contains X.

Finally, claim 11 is amended to correct its dependency, claim 12 is amended to correct the typographical error, and claim 13 is amended to delete “flexible.”

In view of the above remarks, withdrawal of the rejection under 35 USC §112, second paragraph is respectfully requested.

#### **Rejection under 35 USC §102(b)**

Claims 1-5 and 10-18 are rejected as allegedly being anticipated in view of Forloni (US 6,299,984). This rejection is respectfully traversed.

Forloni disclose an oriented, heat-shrinkable, multilayer film having a polyamide layer and a heat-sealing polyolefin layer. The polyamide layer is made from a crystalline or partially crystalline co-polyamide having a glass transition temperature  $T_g$  of  $\leq 100^\circ \text{C}$ . See

ATOCM-0349

column 2, lines 46-53 and column 5, lines 11-29.

At column 3, lines 34-39, Forloni define "co-polyamide" as a "polyamide product built up from two different starting materials, i.e., lactams, aminocarboxylic acids, equimolar amounts diamines and dicarboxylic acids." See also the copolyamides described by Forloni at column 5, lines 30-51. The copolyamides can also be admixed with other co-polyamides, ethylene-vinyl alcohol co-polymers, polyesters, and co-polyesters. See column 5, lines 59-67.

The polyolefin layer can be ethylene copolymers. See the description of suitable ethylene copolymers at column 6, lines 30-56.

Forloni do not disclose or suggest any graft copolymers, let alone a graft copolymer comprising a polyolefin backbone functionalized by an unsaturated monomer (X) and at least one polyamide graft. Therefore, Forloni does not anticipate applicants' claimed invention. With respect to applicants' layer (2), see US 6,875,520.

The assertion that a recitation that a layer is based on a polymer fails to positively recite any structural or composition of said layer is incorrect. No legal support is provided the Examiner's assertion. It is self-evident to one of ordinary skill in the art that a layer which is based on a certain polymer must contain that polymer. No rationale is presented in the rejection that would suggest one of ordinary skill in the art would interpret the language in a contrary manner. Furthermore, defining polymeric layers as being based on a certain type of polymer is conventional claim language in the U.S., as can be readily seen from a quick database search.

In view of the above remarks, it is respectfully submitted that Forloni fails to describe each in every feature of applicants' claimed invention in accordance with 35 USC §102(b). Thus, Forloni fails to anticipate applicants' claimed invention. Withdrawal of the rejection is respectfully requested.

The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,

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